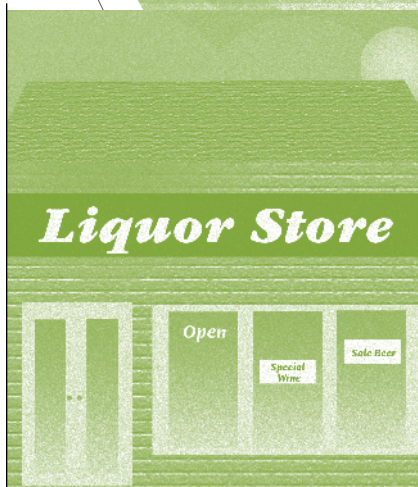
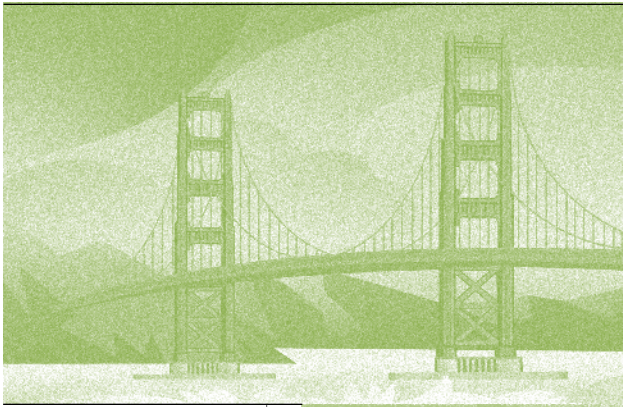


TAX TIPS FOR

LIQUOR STORES



Publication 24

May 2006

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Note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, the law is controlling.

Preface

This publication is designed to help you understand California's Sales and Use Tax Law as it applies to liquor stores. It is not designed to apply to grocery stores, drug stores, department stores having liquor departments, or bars having off-sale licenses. Separate publications are available explaining the application of taxes to those businesses.

If you cannot find the information you are looking for in this booklet, please visit our website www.boe.ca.gov or contact our Information Center at 800-400-7115. Staff will be glad to answer your questions. Telephone numbers for Board of Equalization field offices are listed on page 14.

This publication complements Board publication 73, *Your California Seller's Permit*. That publication, which is provided to first-time applicants for seller's permits, includes general information about obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. If you do not already have a copy of this booklet, you may download one from our website or request a copy from our Information Center.

We welcome your suggestions for improving this or any other tax tip publication. Please send your suggestions to:

State Board of Equalization
Audit and Information Section, MIC:44
P.O. Box 942879
Sacramento, CA 94279-0044

To contact your Board Member, see: www.boe.ca.gov/members/board.html.

Tax Tips for
Liquor Stores

May 2006

1. Taxability of Sales

Because some of your sales will not be taxable, it is important to understand the taxability of the merchandise you sell and other charges to your customers. This chapter answers many of the questions commonly asked regarding liquor store sales.

Taxable and nontaxable sales—an overview

Not all sales are subject to tax. Taxability will depend on what you are selling. The list below provide a brief summary of typical sales for liquor stores. The lists are divided according to taxable and nontaxable sales. If you have a question about a sale not listed below, or if you would like to know more about a particular sale, please contact our Information Center at 800-400-7115.

Specific information on recycling fees, hot prepared foods, money orders, fees for returned checks, lottery sales, newspapers, and periodicals follows the lists below.

■ Taxable sales

The following sales are generally subject to tax:

- All alcoholic beverages
- *Carbonated* water, soft drinks, and mixes
- Ice
- Tobacco products
- Certain hot prepared food products. For more information on hot prepared foods, please see pages 3–5.
- Non-prescription medicines such as cough drops and other sundry items
- Books and publications
- Newspapers and periodicals
- Other non-food or beverage items such as automotive supplies, propane, cards, etc.

Note: As of June 30, 2004, sellers of cigarettes and tobacco products in California must have a California Cigarette and Tobacco Products Retailer's License for each retail location. This is true even if you have a seller's permit or other permits or licenses issued by the Board. For more information, see publication 78, *Sales of Cigarettes and Tobacco Products in California - License Requirement for Retailers*, available from our website, or contact our Excise Taxes division at 916-327-4208.



■ Nontaxable sales

Sales tax does not generally apply to the following sales:

- Food products that are tax exempt, including food items such as milk, ice cream, produce, cold meats, dips, cold sandwiches, candy, chips and non-carbonated, non-alcoholic beverages such as water, juice, and coffee.
- Nontaxable food products also include beverages and cocktail mixes that are neither alcoholic nor carbonated. The exemption applies whether the food is sold in liquid or frozen form.

Note: Some foods, such as hot prepared foods, are taxable. See pages 3–5 for more information.

California redemption value (recycling fee)

Tax may or may not apply to your California Redemption Value (CRV) charges for nonrefillable containers. If sales tax applies to the sale of the beverage, the CRV charge is taxable. If sales tax does not apply to the sale of the beverage, the CRV charge is not taxable.

If sales tax does apply, the amount due is based on the amount received for the beverage and container *and* the amount charged for the CRV. (*Note:* If you give the beverage away and charge only the CRV fee, tax still applies to the CRV if the sale of the beverage would have been taxable.)

Examples of beverage sales subject to tax:

- Beer, wine and other alcoholic beverages
- Carbonated mineral and soda waters
- Carbonated soft drinks and carbonated juices with additives (see paragraph below)

Examples of beverage sales not subject to tax:

- Non-carbonated, 100 percent natural fruit juice
- Non-carbonated, noneffervescent bottled water

Carbonated products which are considered 100% natural fruit juices qualify as exempt “food products.” If the carbonated product includes a preservative, such as sodium benzoate, or any other additive, it will not be considered a natural fruit juice and tax will apply to its sale.

Sales of products such as non-carbonated sports drinks (Gatorade, Powerade, All-Sport) are generally not taxable unless they are packaged or labeled as a food supplement, food adjunct, dietary supplement, or dietary adjunct. Please note that the CRV program is administered by the California Department of

Conservation, Division of Recycling. If you have questions regarding the fee or how to apply it, contact that department. See the State Government pages of your telephone directory or visit them at www.consrv.ca.gov/dor/index.htm.

Manufacturer/Third party rebates

If you buy cigarettes through a cigarette distributor or vendor and receive a “buy-down rebate” from the manufacturer or other third party in exchange for reducing the selling price of your cigarettes, you are liable for tax on the rebate amount received. This is true whether the rebate is paid to you or to your distributor on your behalf. Likewise, tax applies whether or not you are required to redeem a coupon, sticker, or other indicia.

The tax amount due is based on your “gross receipts” for the sale— that is, the rebate amount and the amount paid by your customer. For example, assume you normally sell a package of cigarettes for \$5.00, but under a buy-down rebate plan, agree to sell the package for \$4.50 and receive \$0.50 from the manufacturer. Tax is due based on the \$5.00 you receive for the sale.

It should be noted that rebates received under a buy-down program are different from purchase discounts or credits independently offered by cigarette vendors in exchange for reducing the selling price for cigarettes. Such discounts and credits do not involve a rebate payment from the manufacturer or other third party and are not subject to tax.

Third party rebates are not limited to cigarette manufactures. Many soda, beer and other manufacturers also participate in similar “buy-down rebate” programs. Tax applies in the same manner to soda, beer and other taxable products as to cigarette rebates, as provided above.

Food products

As indicated on page 1, many food products such as milk, bread, and cold meats, are not subject to tax. However, some foods that are tax exempt become taxable if they are sold in a heated condition. Generally, if a combination package sold to go includes cold food and a carbonated beverage, the portion of the selling price that represents the carbonated beverage is subject to tax. The following information is designed to explain the taxability of specific types of food sales.

■ Hot prepared foods

Sales of hot prepared food products are generally taxable. However, there are some exceptions. For example, certain foods heated in microwave ovens may be exempt from tax. This is explained in more detail below.

Hot prepared foods defined

The heating of a food product to a temperature above room temperature is considered the preparation of a hot prepared food (for example, grilling a sandwich, dipping a sandwich bun in hot gravy, using infra-red lights, using steam tables, and so forth).

Examples of hot prepared foods include:

- Hot sandwiches
- Hot soup, bouillon, or consommé
- Hot pizza
- Hot barbecued chicken

When sellers use heating methods or apparatus to reheat or keep food hot until the consumer makes a purchase, it is taxable.

If a hot prepared food is taxable, it remains taxable whether it is to be eaten on the premises or taken out. In addition, hot food is considered taxable even if it has cooled by the time of the sale since it was intended to be sold as a hot food.

Foods heated in a microwave oven

Many liquor stores have microwave ovens that are used to heat food products (such as burritos, individual-size pizzas, soups, and sandwiches). If you are selling a food product that is normally tax exempt (a frozen burrito, for example), the product may become taxable if it is heated in a microwave oven. The location of the microwave oven generally determines whether the sale is subject to tax:

- If the oven is located in a place that is accessible to your customers, the sale of the heated food product is not taxable. (It is presumed that the food is not sold in a heated condition and that your customers, rather than employees, will use the microwave oven to heat the food.)
- If the microwave oven is accessible only to store employees, the sale is taxable. (It is presumed that employees, rather than customers, will heat the food and sell it in a heated condition.)

Hot beverages

Hot beverages, such as coffee and hot chocolate, are exempt from sales tax if they are sold to go and for a separate price. If they are sold to be consumed on the premises, they are taxable.

If they are sold in combination with a cold food product for a single price, they are subject to sales tax. See the next section for more information on combining hot and cold food products.

Reminder: Hot soup, bouillon, and consommé are not considered hot beverages. As noted above, they are considered to be hot prepared foods and are subject to tax.

Combination of hot and cold foods

If you are selling a combination of hot and cold foods for a single price, the entire package becomes taxable.

Example: You are selling a combination of hot coffee and a doughnut for a single price of \$1.50. Since you are selling a hot food product (coffee) and a cold food product (doughnut) together for a single price, tax would apply to the \$1.50 selling price. If the items were sold separately and to go, they would not be taxable.

■ Food sold for consumption on the premises

If you sell food and beverages to be consumed on the premises, they are taxable. For more information on such food sales, please see publication 22, *Tax Tips for the Dining and Beverage Industry*, and Regulation 1603, *Taxable Sales of Food Products*, on our website at www.boe.ca.gov. Copies may be downloaded or requested from our Information Center at 800-400-7115.

Money order service charges

Service charges for money orders are not taxable. Such charges should *not* be included on your sales and use tax return as part of your business' gross receipts.

Charges for returned checks

Amounts charged for returned checks are not taxable. Such charges should *not* be included on your sales and use tax return as part of your business' gross receipts.

Lottery sales

Sales of tickets for California Lottery games are not subject to sales tax and should *not* be reported on your sales and use tax return as part of your business' gross receipts. It is important that you keep your receipts for lottery sales completely separate from receipts for merchandise sales. In the event of an audit, you must be able to clearly identify nontaxable transactions.

Newspapers, magazines, and other periodicals

Newspapers and periodicals that you sell to your customers are taxable. Some exemptions exist, but they generally apply to free periodicals, periodicals distributed to members of qualified nonprofit organizations, periodicals published by organizations that are exempt from federal income tax, and certain periodicals sold on a subscription basis. For more information on the taxability of periodicals, please refer to Regulation 1590, *Newspapers and Periodicals*.

Books

Sales of books are taxable.

Sales of fixtures and equipment

If you sell fixtures and equipment used in your business, the sale is taxable. (Sales of fixtures and equipment used in an activity requiring the holding of a seller's permit are taxable.) Such sales are subject to tax even if they occur as the result of the sale, reorganization, or closure of your business. For more information on this topic, please refer to Regulation 1595, *Occasional Sales—Sale of a Business—Business Reorganization*.

2. Taxability of Purchases

As a retailer, you make numerous purchases related to your business. Those purchases may be for goods and services you need to operate your business. Or they may be for items that you will sell to your customers. This chapter includes information on the taxability of purchases related to your business.

Merchandise purchased for resale

When you use a resale certificate to purchase taxable merchandise for resale, you do not pay sales or use tax at the time of your purchase. Sales tax applies when you sell the merchandise at retail.

However, if you purchase taxable merchandise for resale but use it instead, you must pay use tax to the Board (use tax is explained later). Examples of how you may use merchandise for purposes other than for resale include, but are not limited to the following: merchandise used for donations to certain organizations; merchandise used for personal use; and merchandise given to friends, associates, or employees, and for merchandise used or consumed in your business operations and not sold.

If you know at the time of purchase that the taxable merchandise you are buying will not be resold, you cannot issue a resale certificate and must pay sales or use tax.

If you have paid sales or use tax on merchandise and resell it before you have made a use of it, you can take a credit on the tax return in which you report the sale. You can deduct the amount of the purchase price before sales or use tax was added. It is reported on your return under "Tax-Paid Purchases Resold."

Note: Holding property for resale or using it solely for demonstration or display purposes before it is resold is not considered a personal use of property. That is, you can purchase property that will be used for such purposes without paying sales or use tax at the time of the purchase. If you do not use the property for personal use before it is sold, the property becomes subject to sales tax at the time it is sold.

■ Use tax

As noted above, use tax is due and payable if you purchase taxable property without paying California tax and use the property for a purpose other than for resale. The use tax rate is the same as the sales tax rate.

If you purchase taxable property for resale (without tax), and use the property solely for demonstration or display while holding it for sale in your regular course of business, you are not required to pay tax for such use. If the property is used for any purpose other than or in addition to demonstration or display, such as using it or consuming it in your business operations, you are required to report use tax on your purchase price of the property.

To pay use tax, report the purchase price of the taxable items under “Purchases Subject to Use Tax” on your tax return. Those purchases become part of the total amount that is subject to tax.

Donations of taxable merchandise to certain charitable organizations are considered to be exempt from tax. The purchase prices of those donations do not need to be reported on your tax return. For more information on charitable organizations that are exempt from tax, contact your local Board office.

Supplies, equipment, and other business expenses

Items you purchase for use in your business (display equipment, advertising materials, bookkeeping supplies, maintenance supplies, storage equipment, refrigeration units, and so forth) are subject to sales or use tax at the time you purchase them.

Normally such items are purchased from local suppliers who add and report sales tax. However, if you purchase equipment or supplies from an out-of-state seller, the sale is subject to use tax (use tax is explained above).

If the out-of-state seller does not charge California use tax, you should report the purchase price on your tax return (under “Purchases Subject to Use Tax”).

Note: Wrapping and packaging supplies used to wrap merchandise or bags in which you place items sold to your customers may be purchased for resale. All other purchases of supplies, however, are subject to tax.

3. Inventory Controls

Good inventory controls are important for the following reasons:

- First, as a store operator, you must be able to account for all merchandise you purchased for resale. If you are audited by a Board representative, he or she will compare your purchases with your sales. If the volume of sales appears low in comparison to the volume of purchases, you will be asked to account for the difference. Sometimes the difference is because of losses of merchandise from robberies, shoplifting, or short deliveries. Good records will help you account for those losses.
- Second, good books and records are the key to early detection of losses. Losses can be expected unless good controls are maintained over merchandise inventory from the time goods are purchased until sold.

Recommended inventory controls

For sales and use tax purposes we recommend that you

- Keep a record of all merchandise removed from inventory for other use and keep a record of all sales at case discount price.
- Take a physical inventory at frequent intervals—at least once a year. Be sure the inventory is complete and accurate.

In the period between inventories, compute the cost of merchandise sold, add the expected percentage of mark-up, and deduct case discounts for the period of time involved. Your computed figure should be very close to the sales made for the same period. The difference between the computed figure and the amount in the sale account may represent the retail value of losses.

- Keep accurate and complete records of sales and purchases.
- Ensure that your records of purchases for resale are accurate and complete and do not include supplies or other items not for resale. (Merchandise received but not yet paid for should be included.)

Types of losses to look for

You should look for the following types of losses:

- Money pocketed by employees and covered up by not ringing up the sale or ringing it up at a lesser amount.
- Merchandise pilfered by employees, clean-up crews, or other persons with access to the store.

- Short deliveries or pilferage by delivery persons.
- Shoplifting by customers.

Note: Robberies of cash are not deductible for sales tax purposes because tax is measured by sales (that is, the sale of the taxable merchandise occurred before the robbery). You still have the responsibility to pay tax on all taxable sales in the usual manner despite a loss of proceeds from sales.

4. For More Information

Website

For publications, forms, regulations, and much more: www.boe.ca.gov

Information Center

If you have a general tax question, please call our toll-free number and speak with a Customer Service Representative. Representatives are available weekdays from 8:00 a.m. to 5:00 p.m., except state holidays. Please call

800-400-7115 TDD/TTY: 800-735-2929

Assistance is available in languages other than English.

Questions regarding your account

Please call the local Board office that maintains your records. The name and telephone number of the appropriate office is printed on your tax returns. Field office telephone numbers are provided on at the end of this section.

Verifying seller's permit numbers (sales for resale)

If a customer gives you a resale certificate for a purchase, you may contact us to verify the customer's seller's permit number.

Use the Internet: www.boe.ca.gov. Click on "Verify a Permit/License."

Call our toll-free automated verification service: 888-225-5263. You will need to provide the seller's permit number you want to verify.

Faxback service

Our faxback service, which allows you to order selected forms and publications, is available 24 hours a day. Call 800-400-7115 and choose the fax option. We'll fax your selection to you within 24 hours.

Publications and regulations

To obtain copies of forms, publications, and regulations:

Use the Internet: www.boe.ca.gov. You may view or download copies of forms, publications, and regulations or you may order forms and publications using our online ordering system.

Call our Information Center. A customer service representative will assist you during working hours. If you know the name or number of the document you are requesting, you may call outside normal working hours and leave a recorded message. Certain documents are also available on our faxback service, as described above.

Selected regulations and publications that may interest you are listed below. A complete listing of sales and use tax regulations and publications appears in publication 73, *Your California Seller's Permit*.

■ Regulations

- 1602 Food Products
- 1603 Taxable Sales of Food Products
- 1700 Reimbursement for Sales Tax

■ Publications

The letters V, K, C, S, F following a publication indicate the publication is available in Vietnamese, Korean, Chinese, Spanish, and/or Farsi, respectively.

- 17 Appeals Procedures
- 31 Tax Tips For Grocery Stores (V, K, S, C)
- 44 Tax Tips for District Taxes
- 51 Guide to Board of Equalization Services (V, K, S, C)
- 61 Sales and Use Taxes: Exemptions and Exclusions
- 70 The California Taxpayer's Bill of Rights (V, K, S, C)
- 73 Your California Seller's Permit (V, K, S, C, F)
- 74 Closing Out Your Seller's Permit (S, C)
- 75 Interest and Penalties
- 76 Audits (K, S, F)
- 78 Sales of Cigarettes and Tobacco Products in California, License Requirements for Retailers
- 103 Sales for Resale (S)
- 112 Purchases from Out-of-State Vendors (S)

Tax Information Bulletin

As a registered seller, you will receive the quarterly *Tax Information Bulletin*, which includes articles on specific types of transactions, announcements about new and revised publications, and other articles of interest to sellers. The bulletin is mailed with your sales and use tax returns. You can also find the bulletins on our website at www.boe.ca.gov/news/tibcont.htm. If you file only once a year and would like to receive all four bulletins, please write and ask to be added to Mailing List #15: Mail Services Unit, MIC:12; Attn: Addressing Systems; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0012.

Written tax advice

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction. Please send your request to the Board office that handles your account.

Written tax advice is specific to individual taxpayers. You cannot obtain tax relief by relying on a written opinion given to another business, even if your transactions are similar. In addition, tax relief is not available if you incorrectly apply tax based on advice we give you in person or over the telephone.

Classes

Some of our local offices offer classes in basic sales and use tax, as well as in tax return preparation. Check our website at www.boe.ca.gov under "Sales and Use Tax" for a listing of classes or to see our online Basic Sales and Use Tax Tutorial. You can also call your local office for class information.

Taxpayers' Rights Advocate

If you have been unable to resolve a disagreement through normal channels, we encourage you to contact the Taxpayers' Rights Advocate Office:

Taxpayers' Rights Advocate Office, MIC: 70
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0070

Phone: 888-324-2798 toll-free
916-324-2798

Fax: 916-323-3319

Field Offices

City	Area Code	Number	City	Area Code	Number
Bakersfield	661	395-2880	Salinas	831	443-3003
Chula Vista	619	409-7440	San Diego	619	525-4526
Culver City	310	342-1000	San Francisco	415	356-6600
El Centro	760	352-3431	San Jose	408	277-1231
Fresno	559	248-4219	San Marcos	760	510-5850
Kearny Mesa	858	636-3191	Santa Ana	714	558-4059
Laguna Hills	949	461-5711	Santa Rosa	707	576-2100
Long Beach	562	901-2483	Suisun City	707	428-2041
Norwalk	562	466-1694	Van Nuys	818	904-2300
Oakland	510	622-4100	Ventura	805	677-2700
Rancho Mirage	760	346-8096	West Covina	626	480-7200
Redding	530	224-4729	<i>Out-of-State Accounts</i>		
Riverside	951	680-6400	Please call:	916	227-6600
Sacramento	916	227-6700			

What do you think of this publication?

We hope this revised tax tip pamphlet will help you better understand the Sales and Use Tax Law as it applies to your business.

We would appreciate it if you could take a few minutes to give us your comments and suggestions for this pamphlet, so that we can improve future revisions. We'd also like to have some information that will help us make our publications program more useful to you. Please answer the questions below and on the reverse, remove the page, and return it to us. It is designed as a postage-paid self-mailer: you may fold the page as indicated and seal it with two pieces of tape.

Thank you for taking the time to respond to this survey.

Publication Comments and Suggestions

1. Does this publication help you apply the sales and use tax in your business?
2. Are there any sections of this publication you find particularly helpful? (please note)
3. Are there any sections of the publication that you find confusing? (please explain, if possible)
4. Are there any topics not addressed in this publication that you would like us to include?
5. Are there any sections of the publication you feel are incomplete? What would you add to them?
6. Do you have any other comments or suggestions for improving this publication??

Name (optional) _____

Phone (optional) _____

Date _____

(Please answer questions on reverse.)

Tax Tips for
Liquor Stores

May 2006

tape



State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0058



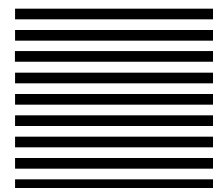
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Reader Survey Information (Please check all boxes that apply.)

What is the nature of your business?

How long have you been in business?

- ☐ less than one year ☐ 1-5 years
☐ 6-10 years ☐ more than 10 years

Did you receive a copy of this publication (or an earlier version) when you applied for or received your seller's permit?

- ☐ yes ☐ no ☐ not sure

How did you find out about this publication?

- ☐ Board field office
☐ Board auditor
☐ *Tax Information Bulletin*
☐ Publications listing in a Board publication
☐ Board website
☐ Other (please list) _____

Where did you obtain this publication?

- ☐ Board field office
☐ Board auditor
☐ Board Information Center
☐ Board website
☐ Other (please list) _____

Do you use any other Board publications to help you apply or understand the California Sales and Use Tax Law? (please list) _____

California State Board of Equalization
450 N Street • Sacramento, California
(Mailing Address: P.O. Box 942879 • Sacramento, CA 94279-0001)

